Form No. J.(2)
Item No. 05

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

HEARD ON: 03.12.2024

DELIVERED ON: 03.12.2024

CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

W.P.T.T. 44 of 2024
Mukul Agarwal (HUF),
Proprietor of M/s. Udit Trading & Marketing
Vs.
The West Bengal Commercial Taxes
Appellate & Revisional Board & Ors.

Appearance:-
Mr. Samriddha Sankar Sengupta ....for the petitioner

Mr. Anirban Ray, Ld. GP
Mr. T.M. Siddique, Sr. Adv.
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. S. Sanyal ....for the respondents

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This writ petition has been filed by the assessee challenging the order passed by the West Bengal Taxation Tribunal , Kolkata dated September 17, 2024 by which the learned tribunal declined to take on record the supplementary affidavit filed by the writ petitioner/assessee on July 29, 2024 on the ground that it was filed well beyond the time granted by the learned tribunal by its order dated January 22, 2024.

2. Such discretionary order will not be interfered by this Court, more particularly, when it is a statutory tribunal.
3. However, one fact, which has persuaded us to take a slightly different stand is that the learned tribunal in its hearing held on January 22, 2024 had granted liberty to the writ petitioner/assessee to file a supplementary affidavit within seven days. However, the writ petitioner/assessee did not file it within seven days but filed it on July 29, 2024 i.e. after nearly seven months.
4. However, the matter was taken up for hearing by the learned tribunal only on September 17, 2024 and not earlier and on which date, the impugned order came to be passed. Therefore, we are of the view that the supplementary affidavit can be permitted to be taken on record with liberty to the department to file their affidavit in opposition.
5. The learned advocate for the writ petitioner/asssessee submits that during the pendency of this appeal, the department has filed their affidavit in opposition to the original application filed by the assessee before the learned tribunal.
6. Since we are of the view that the supplementary affidavit should be permitted to be taken on record, we accordingly, direct the learned tribunal to take the supplementary affidavit on record and grant reasonable time to the respondents/department to file their affidavit in opposition and thereafter take a decision in the matter on merits and in accordance with law.

7. It is made clear that this order has been passed taking into consideration the peculiar facts and circumstances of the case and not to be treated as a precedent.

8. With the aforesaid observations/directions, the writ petition is disposed of.

9. No costs.

10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/KS AR(Ct.)